

1 **AVETIS SPARTALIAN**  
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4 Plaintiff  
Pro Se

FILED 18 MAY '12 08:34AM DC-CRP

**UNITED STATES DISTRICT COURT  
FOR THE STATE OF OREGON**

AVETIS SPARTALIAN.

*Plaintiff,*

v.

14 CITIBANK, N.A.; RAUSCH, STURM,  
15 ISRAEL, ENERSON and HORNIK,  
LLC; RICHARD A. RUSSELL; and  
SHELLEY L. LANZKOWSKY;

### *Defendants*

Case No. 12 - CV - 888 - No.

**COMPLAINT FOR DAMAGES  
UNDER THE FAIR DEBT  
COLLECTION PRACTICES ACT,  
AND THE OREGON PRACTICES  
ACT AND OTHER EQUITABLE  
RELIEF**

**DEMAND FOR JURY TRIAL**

I.

## INTRODUCTION

21 1. This is an action for damages brought by an individual consumer for Defendants' 22 violations of the Fair Debt Collection Practices Act, 15 U.S.C. §1692, et seq. 23 (hereinafter "FDCPA"), and the State of Oregon Fair Debt Collection Practices Act 24 646.641, which prohibit debt collectors from engaging in abusive, deceptive, and unfair 25 practices. Also included are common law tort actions.

26 | 2. All of Defendant's actions occurred within one year of the date of this Complaint.

27 | //

III.

**SPARTALIAN v. RAUSCH, et. al.,**  
Case No.:

**COMPLAINT  
DEMAND FOR JURY TRIAL**

46966

## **JURISDICTION AND VENUE**

2 3. Jurisdiction of the Court arises under 15 U.S.C. §1692k(d), 28 U.S.C. §1337,  
3 and supplemental jurisdiction exists for the state law claims pursuant to 28 U.S.C.  
4 §1337 (State of Oregon Fair Debt Collection Practices Act 646.641. Declaratory relief  
5 is available pursuant to 28 U.S.C. §§2201 and 2202. Venue in this District is proper  
6 in that Defendants transact business here and the conduct complained of occurred here.

III.

## PARTIES

9 4. The Plaintiff is a person who allegedly incurred a consumer debt primarily for  
10 personal, family, or household services.

11 | 5. The Plaintiff is a "consumer" as defined by 15 U.S.C. § 1692a(3).

12 6. Defendant Rausch, Sturm, Israel, Emerson, and Hornik, LLC, a law firm, is a  
13 Wisconsin Limited Liability Company engaged in the business of collecting debts in  
14 this state with a principal place of business location at 8691 West Sahara Avenue, Suite  
15 210, Las Vegas, Nevada 89117. The principal purpose of this defendant is the  
16 collection of debts using the mails and telephones, and this defendant regularly attempts  
17 to collect debts alleged to be due another. Defendant is a debt collector as defined by  
18 the FDCPA, 15 U.S.C. § I 692a(6).

19 7. Defendant Richard A. Russell, a lawyer, is a natural person employed by  
20 Defendant Rausch, Sturm, Israel, Enerson, and Hornik, LLC, as a collector at all times  
21 relevant to this complaint. Defendant is a debt collector as defined by the FDCPA, 15  
22 U.S.C. § 1692a(6).

23 8. Defendant Shelley L. Lanzkowsky, a lawyer, is a natural person employed by  
24 Defendant Rausch, Sturm, Israel, Enerson, and Hornik, LLC, as a collector at all times  
25 relevant to this complaint. Defendant is a debt collector as defined by the FDCPA, 15  
26 U.S.C. § 1692a(6).

27 9. Defendants named in paragraphs 6, 7, and 8 are “debt collectors” as defined by  
28 the FDCPA, 15 U.S.C. §1692a(6).

1 10. Defendant Citibank, N.A., is a foreign corporation doing business in Oregon.

2 **IV.**

3 **FACTS**

4 11. Plaintiff Spartalian had several credit cards through Citibank, in the State of  
5 Oregon.

6 12. Defendant lawyers knowing that the debt was incurred by the Plaintiff in the  
7 State of Oregon, filed suit against Plaintiff in Clark County, Nevada, to collect an  
8 amount allegedly due on one of the cards. In that suit Defendant lawyers falsely alleged  
9 that Plaintiff was a resident of Clark County, Nevada. .

10 13. Defendant Lawyers never served nor caused to be served the summons and  
11 complaint to Plaintiff, personally. However, knowing that Plaintiff did not reside  
12 within the State of Nevada, caused and did serve the Plaintiff's daughter-in-law at her  
13 residence in Clark County, Nevada.

14 14. Notwithstanding that Defendant Lawyers knew or should have reasonably  
15 known that service on Plaintiff was ineffective, and that the State of Nevada had no  
16 personam or never acquired jurisdiction over the Plaintiff, Defendant Lawyers wrote  
17 a letter to Plaintiff and mailed the letter through the United States Postal Service, to  
18 Plaintiff at his daughter-in-law's residence in Clark County, Nevada, threatening  
19 Plaintiff that Defendant Lawyers were going to take default judgment against him. The  
20 Nevada lawsuit was filed against Plaintiff on December 04<sup>TH</sup>, 2011.

21 15. Citibank hired Defendant Lawyers who operate in many states.

22 **V.**

23 **FIRST CLAIM FOR RELIEF**

24 **Violation of the Federal Fair Debt Collections Practices Act**

25 **(against Defendant Lawyers)**

26 16. Plaintiff incorporates each of the preceding allegations as if specifically stated  
27 herein.

28 17. The Defendant Lawyers violated 15 U.S.C. § 1692c in that they contacted a third

1 party more than once and disclosed the existence, nature and/or amount of the debt.

2 **VI.**

3 **SECOND CLAIM FOR RELIEF**

4 **Violation of the Oregon Fair Debt Collections Practices Act**  
5 **(against Defendant Lawyers)**

6 17. Plaintiff incorporates each of the preceding allegations as if specifically stated  
7 herein.

8 18. The Defendant Lawyers violated State of Oregon Fair Debt Collection Practices  
9 Act 646.641 in that they contacted a third party more than once and disclosed the  
10 existence, nature and/or amount of the debt.

11 **VII.**

12 **THIRD CLAIM FOR RELIEF**

13 **Violation of the Federal Fair Debt Collections Practices Act**  
14 **(against Defendant Lawyers)**

15 18. Plaintiff incorporates each of the preceding allegations as if specifically stated  
16 herein.

17 19. The Defendant violated 15 U.S.C. §1692f in that its actions were unfair and/or  
18 unconscionable means to collect a debt.

19 **VIII.**

20 **FOURTH CLAIM FOR RELIEF**

21 **Violation of the Oregon Fair Debt Collections Practices Act**  
22 **(against Defendant Lawyers)**

23 20. Plaintiff incorporates each of the preceding allegations as if specifically stated  
24 herein.

25 21. The Defendant violated Oregon Fair Debt Collection Practices Act 646.641 that  
26 its actions were unfair and/or unconscionable means to collect a debt.

27 **IX.**

28 **FIFTH CLAIM FOR RELIEF**

## **Violation of the Federal Fair Debt Collections Practices Act (§ 807)**

### (against Defendant Lawyers)

22. Plaintiff incorporates each of the preceding allegations as if specifically stated herein.

23. § 807 in pertinent parts states, “False or misleading representations A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. (10) The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.”

24. Defendant Lawyer filed the complaint for the alleged debt in the wrong jurisdiction and venue, to wit: in the County of Clark, State of Nevada instead of the Plaintiff's resident State of Oregon.

X.

## **SIXTH CLAIM FOR RELIEF**

## **Violation of the Oregon Fair Debt Collections Practices Act**

### (against Defendant Lawyers)

25. Plaintiff incorporates each of the preceding allegations as if specifically stated herein.

26. Defendant Lawyers used false, deceptive, or misleading representation by filing the aforementioned State lawsuit in the wrong jurisdiction and venue, in violation of Oregon Fair Debt Collection Practices Act 646.641 that its actions were unfair and/or unconscionable means to collect a debt.

XI.

## **SEVENTH CLAIM FOR RELIEF**

## **Violation of the Federal Fair Debt Collections Practices Act**

### (against Defendant Lawyers)

27. Plaintiff incorporates each of the preceding allegations as if specifically stated herein.

1 28. Defendant Lawyers violated 15 U.S.C. §1692d by engaging in conduct the  
2 natural consequence of which is to harass, oppress, or abuse Plaintiff in connection  
3 with the collection of a debt.

4 **XII.**

5 **EIGHTH CLAIM FOR RELIEF**

6 **Violation of the Oregon Fair Debt Collections Practices Act**  
7  
(against Defendant Lawyers)

8 29. Plaintiff incorporates each of the preceding allegations as if specifically stated  
9 herein.

10 30. Defendant Lawyers violated Oregon Fair Debt Collection Practices Act 646.641  
11 by engaging in conduct the natural consequence of which is to harass, oppress, or abuse  
12 Plaintiff in connection with the collection of a debt.

13 **XIII.**

14 **NINTH CLAIM FOR RELIEF**

15  
(against defendant Citibank)

16 31. Plaintiff incorporates each of the preceding allegations as if specifically stated  
17 herein.

18 32. Plaintiff alleges that defendant Citibank was a legal cause of damages to  
19 Plaintiff. By the following acts or omissions to act, defendant Citibank negligently  
20 caused the damages to the Plaintiff:

21 a. hiring the debt collectors named in this suit;  
22 b. inadequately supervising and/or checking the work of the debt collectors  
23 named in this suit.

24  
25  
26 **XVI.**

27 **TENTH CLAIM FOR RELIEF**  
28  
(against all Defendants)

1 33. Plaintiff incorporates each of the preceding allegations as if specifically stated  
 2 herein.

3 34. Plaintiff alleges that all Defendants knew or should have reasonable known that  
 4 Plaintiff acquired the alleged debt in the State of Oregon, and that he did not live in the  
 5 State of Nevada. Plaintiff alleges that notwithstanding the aforementioned knowledge  
 6 and information of Plaintiff's true, actual and correct address, the Defendants conspired  
 7 among each other to misuse the judicial process by filing a legal action before the Clark  
 8 County and State of Nevada civil court, absent jurisdiction and venue.

9 35. As a result of the mis-filing proceedings Plaintiff wrote to the Defendants and  
 10 informed them that they had filed said action in the wrong jurisdiction and venue.  
 11 However, Plaintiff's written communication was ignored by them.

12 36. Defendants, in bad faith sought relief from the Clark County, State of Nevada  
 13 courts, instead of the Courts of the State of Oregon with no evidentiary supporting  
 14 evidence that Plaintiff was a resident of Clark County, State of Nevada, and/or that the  
 15 contractual interaction took place in Clark County, State of Nevada.

16 37. The Abuse of Process induced, implemented, performed and executed by all the  
 17 Defendants was malicious, oppressive. It caused financial burden, harassment and  
 18 depravity, all to injure and harm the Plaintiff.

19 **WHEREFORE:**

20 a. For the **FIRST** through the **EIGHTH** Claims, and as a result of the above  
 21 violations of the FDCPA, the defendant debt collectors are liable to the Plaintiff for  
 22 declaratory judgment that defendant debt collectors' conduct violated the FDCPA, and  
 23 Plaintiff's actual damages, statutory damages, and costs and attorney's fees.

24 b. For the **FIRST** through the **EIGHTH** Claims, and as a result of the above  
 25 violations of the Oregon Fair Debt Collection Practices Act 646.641, the defendant  
 26 debt collectors are liable to the Plaintiff for declaratory judgment that defendant debt  
 27 collectors' conduct violated the Oregon Fair Debt Collection Practices Act 646.641,  
 28 and Plaintiff's actual damages, statutory damages, and costs and attorney's fees.

1       c. For the **NINTH** Claim, as a result of the negligence of Defendant  
2 Citibank, Plaintiff has suffered damages including, but not limited to, severe  
3 embarrassment and emotional distress, Plaintiff's actual damages, statutory damages,  
4 and costs and attorney's fees..

5       d. For the **TENTH** Claim, Plaintiff's actual damages, statutory damages, and  
6 costs and attorney's fees.

7       **AS TO ALL CAUSE OF ACTION**

8       e. For any and all other relief, this Court deems just and proper.

9       Dated: 18 May 2012

10  
11       *Avetis Spartalian*  
12       AVETIS SPARTALIAN  
13       Plaintiff, Pro Se

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